

Appl. No. 10/089,331
Atty. Docket No. 8166M
Amdt. dated August 26, 2004
Reply to Office Action of June 2, 2004
Customer No. 27752

REMARKS

The paragraph beginning on page 14, line 13, and the paragraph beginning on page 18, line 18, of the Specification have been amended, as requested by the Examiner, to provide antecedent basis for any claim terminology used. No new matter has been incorporated.

Claims 7, 21, and 24 have been cancelled without prejudice. Claims 1, 25, 29, and 30 have been amended. Claims 1 and 25 have been amended to require that the flexible film dosing reservoir comprise a resealable channel having a predetermined location and be in fluid communication with the reservoir. Exemplary support for the current Amendments to Claims 1 and 25 is found on page 14, line 13 – page 15, line 5 and Figs. 7, 19, 20, 21, and 24 of the Specification as originally filed. Claim 29 has been amended to require the flexible film dosing reservoir comprise a distribution channel disposed proximate to the frangible seal so that product is sequentially releasable through the seal and through the distribution channel to the first substrate via multiple applications of pressure to the reservoir. Support for the current Amendment to Claim 29 is found on page 13, lines 16-19 and Figs. 7, 19, 20, 21, and 24 of the Specification, as originally filed. Claim 30 has been amended to require the reservoir to have a distribution channel at a predetermined location on the reservoir so that product is sequentially released to the first substrate through the channel. Support for the current Amendment to Claim 30 is found on page 14, lines 13-26 and Figs. 7, 19, 20, 21, and 24 of the Specification, as originally filed. No new matter has been presented in amended Claims 1, 25, 29, and 30. Claims 1-6, 10-20, 22-23, and 25-30 remain in the instant Application and are presented for the Examiner's reconsideration in light of the above Amendments and the following comments.

Telephonic Interview

Applicants thank the Examiner for the telephonic interview of August 24, 2004. The issues discussed during the interview and the substantive conclusions resulting from this discussion are as follows:

1. With regard to the Examiner's objection to the drawings, the Examiner suggested Applicants request reconsideration of the formal drawings received by the USPTO on April 15, 2004.
2. With regard to the Examiner's objection the Specification, the Examiner suggested Applicants amend the Specification to provide the requested antecedent basis for the claim terminology.
3. With regard to the current rejections under 35 U.S.C. §112, ¶1, Applicants discussed the current Specification and figures attached thereto with regard to the enablement issues raised by the Examiner. With regard to enablement, the Examiner suggested Applicants amend the instant

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Specification commensurate in scope with the claimed subject matter to overcome the instant rejection under 35 U.S.C. §112, ¶1.

4. No discussion regarding the 35 U.S.C. §112, ¶1 new matter rejections was conducted during the telephonic interview.

5. With regard to the current rejections under 35 U.S.C. §102 and 35 U.S.C. §103, Applicants discussed the addition of a claim limitation requiring the reservoir to comprise a resealable channel having a predetermined location. The proposed amendments, as discussed, have been presented in the instant response and are presented for the Examiner's further review. It is believed that the instant amendments to Applicants' claims will place the instant Application in condition for allowance.

Drawings

The Examiner has objected to Applicants' drawings. Commensurate in scope with the telephonic interview, the Examiner is respectfully requested to reconsider the drawings received by the Office on April 15, 2004. Applicants believe the drawings comply with 37 C.F.R. §1.84(k) and M.P.E.P. §608.02. Applicants respectfully request removal of the the Examiner's objection to the drawings.

Specification

The Examiner has objected to Applicants' Specification as failing to provide proper antecedent basis for the claim terminology "a resealable channel" and "a first substrate." Commensurate in scope with the telephonic interview, Applicants have amended the paragraphs beginning on page 14, line 13, and page 18, line 18, to provide the requested antecedent basis for these claim terms. Applicants respectfully request withdrawal of the Examiner's objection to the Specification.

Rejections Under 35 U.S.C. §112

Claims 1-7, 10-23, and 25-28 have been rejected under 35 U.S.C. §112, ¶1 for Applicants' use of a "resealable channel." Additionally, Claims 2, 13, and 14 have been rejected under 35 U.S.C. §112, ¶1 for Applicants' use of the phrase "a first substantially fluid-impervious barrier layer is located between said reservoir and said second internal surface of said second side." Claims 29 and 30 have been rejected under 35 U.S.C. §112, ¶1 for Applicants' use of the term "sequentially" and the phrase "via multiple applications of pressure to said reservoir." Applicants respectfully traverse these rejections. As detailed above, Applicants have amended the paragraph beginning on page 14, line 13,

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and on page 18, line 18, of the Specification. Consistent with the current amendment, Applicants believe the Specification provides enablement for a "resealable channel." Additionally, Applicants respectfully direct the Examiner's attention to the paragraph beginning on page 22, line 30, of the Specification and to Fig. 2 for support of "a first substantially fluid-impervious barrier layer ... located between said reservoir and said second internal surface of said second side," as presented in Claim 2. Further, Applicants respectfully direct the Examiner's attention to page 15, lines 1-5, of the Specification, which support Applicants' claim limitations of "sequentially" and "via multiple applications of pressure to said reservoir," as presented in Claim 30. In light of Applicants' discussion during the telephonic interview and the previously discussed amendments, Applicants respectfully request withdrawal of the Examiner's 35 U.S.C. §112, ¶1 rejection to Claims 1-7, 10-23, and 25-30 herewith.

Claims 13 and 14 have been rejected under 35 U.S.C. §112, ¶1 because the Examiner believes Claim 13 is directed to new matter. Applicants respectfully traverse this rejection by directing the Examiner's attention to the paragraph beginning on page 28, line 1, of the Specification, as originally filed. In relevant part, Applicants state, "To protect the wearer's hand from contact with liquids absorbed by the back panel 26, it may be desirable for some applications to include an **optional additional fluid impervious barrier layer 27**, the interior of which defines the back inner surface 34 that faces the wearer's hand during use." (Emphasis added) Further, call-out 27, shown in Fig. 2, shows a layer disposed between the first barrier layer 25 and the second internal surface. In light of this abundant disclosure, Applicants respectfully request withdrawal of the Examiner's 35 U.S.C. §112, ¶1 rejection to Claims 13 and 14 herewith.

By amendment herein, Claim 7 has been cancelled without prejudice; therefore, the instant rejection to Claim 7 under 35 U.S.C. §112, ¶1 has been obviated.

Claim 10 has been rejected under 35 U.S.C. §112, ¶1 for Applicants' use of the phrase "further comprises a distribution head in fluid communication with said resealable channel." Applicants respectfully traverse this rejection. The Examiner is respectfully directed to the Specification beginning on page 12, line 33, and Fig. 21. In relevant part, Applicants state, "Figure 21, for example, shows several 'fingers' 95 protruding from the dispensing head 91 thus allowing product to be delivered directly to various locations." Thus, Applicants indeed provide support for Claim 10. Therefore, Applicants respectfully request withdrawal of the Examiner's 35 U.S.C. §112, ¶1 rejection to Claim 10 herewith.

Claims 21 and 24 have been cancelled without prejudice herein; thus, the rejections to Claims 21 and 24 under 35 U.S.C. §112, ¶1 have been obviated.

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Rejection Under 35 U.S.C. §102

Claim 24 has been rejected under 35 U.S.C. §102(b) over Cohen, et al., U.S. Patent No. 5,957,605. By amendment herein, Applicants have cancelled Claim 24, thereby obviating the rejection to Claim 24.

Claim 29 has been rejected under 35 U.S.C. §102(b) over Ketner, U.S. Patent No. 3,636,922. Applicants respectfully traverse this rejection. By amendment herein, Applicants have amended Claim 29 to now claim an applicator comprising a flexible film dosing reservoir comprising at least one frangible seal and a distribution channel disposed proximate to the seal. A product in the reservoir is sequentially releasable through the seal and through the distribution channel to the first substrate via multiple applications of pressure to the reservoir. The *Ketner* reference is silent with respect to providing a distribution channel disposed proximate to such a flexible film dosing reservoir. In fact, the container disclosed in the *Ketner* reference is weakened by score lines so that the container will break all around its periphery and at the sides when pressure is applied manually at opposite sides of the applicator. (2:54-57) Thus, the product contained within the *Ketner* container is released wholesale to the surrounding environment rather than in a controlled fashion, such as through a distribution channel onto a substrate, as claimed in Applicants' amended Claim 29. Therefore, Applicants respectfully request withdrawal of the Examiner's 35 U.S.C. §102(b) rejection to Claim 29 herewith.

Rejection Under 35 U.S.C. §103

Claims 1-5, 10-21, and 25-30 have been rejected under 35 U.S.C. §103(a) over Gerber, et al., U.S. Patent No. 2,209,914 in view of *Ketner*. Previous arguments made with respect to the *Gerber* and *Ketner* references remain in effect but will not be repeated for the sake of brevity. In conjunction with the amendments made to the claims herein, the Examiner is respectfully urged to consider the following additional matters that distinguish Applicants' invention, as now presented, over the *Gerber* and *Ketner* references:

1. Applicants' Claims 1, 25, 29, and 30, now each claim an applicator comprising, *inter alia*, a flexible film dosing reservoir comprising a resealable channel having a predetermined location and in fluid communication with the reservoir so that product is releasable from the reservoir through the resealable channel and through the first side of the applicator to a target surface.

2. The *Gerber* reference discloses the use of a pin or other sharp instrument that may be passed through the outer covering or padding material and allowed to penetrate the outer shell of the capsule or disk. The capsule, being depressible and containing a liquid, may then be squeezed and a

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quantity of medication or odorous material will escape onto and be absorbed by the covering or material pad. (3:41 – 4:2)

3. Likewise, the *Ketner* reference discloses a hermetically sealed container having rolls that are weakened by score lines so the container breaks all around its periphery and disposes the product contained therein to the surrounding environment. (2:50-60)

4. No motivation is provided in either the *Gerber* and *Ketner* references to provide a focused delivery of product from a reservoir to an external surface through a distribution channel. *Gerber* and *Ketner* only provide for the wholesale transfer of a product in a reservoir to an external surface.

Because of these considerations, the *Gerber* and *Ketner* references do not suggest what Applicants claim as their invention, inasmuch as there is no disclosure, teaching, or suggestion to provide an applicator comprising, *inter alia*, a laminate film reservoir comprising a resealable channel having a predetermined location. Thus, the *Gerber* and *Ketner* references, alone or in combination, fail to render obvious every recited feature of Applicants' independent Claims. Further, because Claims 2-6, 10-20, 22-23, and 26-28 all depend directly or indirectly from Applicants' Claims 1 or 25, they contain all of their respective limitations. Therefore, Applicants submit that the arguments made above concerning the allowability of Claims 1 and 25 are equally applicable to the rejection of the claims dependent thereon under 35 U.S.C. §103(a). Applicants therefore request reconsideration and withdrawal of the Examiner's 35 U.S.C. §103(a) rejections herewith.

Claim 30 has been rejected under 35 U.S.C. §103(a) over *Ketner* in view of *Gerber*, et al. Previous arguments made with respect to the *Gerber* and *Ketner* references remain in effect but will not be repeated for the sake of brevity. Applicants traverse this rejection and respectfully request the Examiner to consider the following:

1. Claim 30, as now presented by amendment, claims an applicator comprising, *inter alia*, a reservoir having a comparatively low burst force and a distribution channel at a predetermined location on the reservoir. The product is sequentially released to the first substrate through the channel via multiple applications of pressure to the reservoir.

2. As discussed previously, there is no disclosure, teaching, or suggestion provided within either the *Gerber* and *Ketner* references to provide what Applicants claims as their invention.

Applicants therefore respectfully request reconsideration and withdrawal of the Examiner's 35 U.S.C. §103(a) rejection to Claim 30.

Conclusion

Based on the foregoing, it is respectfully submitted that each of Applicants' remaining claims is in condition for allowance and favorable reconsideration is requested.

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This response is timely filed pursuant to the provisions of 37 C.F.R. §1.8 and M.P.E.P. §512, and no fee is believed due. However, if any additional charges are due, the Examiner is hereby authorized to deduct such charge from Deposit Account No. 16-2480 in the name of The Procter & Gamble Company.

Respectfully submitted,

GRUENBACHER, ET AL.

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